

w/o  
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FILED  
346 O'Clock, PM

APR - 8 2 11

Defense Proposed Limiting Instruction  
4/8/11

JEANINE H. HAGEN  
BY RHONDI HAGEN  
Deputy

Ladies and Gentlemen,

As I have mentioned, some evidence is relevant only for limited purposes. In the past two days, you have heard evidence of circumstances at sweat lodge ceremonies that took place prior to the 2009 sweat lodge ceremony that is at issue in this case. The Court has concluded that "despite the large number of participants, there is no substantial medical evidence that any of the persons attending the pre-2009 Spiritual Warrior events suffered a life-threatening condition." As a result, the law provides that any physical conditions that may have been experienced at these prior events, if believed, are not "not sufficiently similar to the medical conditions associated with deaths in 2009" to put a person on notice of a substantial risk of death in 2009.

In accordance with that ruling, you may not consider any evidence regarding prior sweat lodge ceremonies, if believed, to draw any inference regarding Mr. Ray's knowledge of any risk of death in 2009. You also may not consider the evidence regarding prior sweat lodge ceremonies, if believed, to draw any inference regarding Mr. Ray's intent, character, or conduct in 2009. The law also prohibits you from drawing an inference that a person who acted in a certain manner on one occasion is likely to do so again. You may only consider evidence from those prior sweat lodge ceremonies, if believed, as it may relate to whether the State has proven beyond a reasonable doubt that the decedents died of heat stroke and not a different cause, if you find it has a bearing on that question.